

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-393-C

In Re:)	
Application of First Choice Technology,)	
Inc, for a Certificate of Public)	
Convenience and Necessity to Provide)	SETTLEMENT AGREEMENT
Resold Intrastate Interexchange)	
Telecommunications Services)	
Within the State of South Carolina)	
and for Alternative Regulation)	

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and First Choice Technology, Inc. ("First Choice" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, on November 1, 2007, First Choice filed its Application requesting (i) a Certificate of Public Convenience and Necessity be granted authorizing First Choice to provide resold intrastate interexchange telecommunications services throughout the State of South Carolina; and (ii) alternative regulation of its interexchange business services, consumer card services, operator services, and private line services consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C;

WHEREAS on November 19, 2007, the Commission issued a Notice of Filing and Hearing and established a return date of December 20, 2007, for the filing of letters of protest or petitions to intervene and established an initial hearing date of February 25, 2008 which was

rescheduled to take place on June 9, 2008 for the application to be heard before a hearing examiner;

WHEREAS, on November 20, 2007, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS, on December 13, 2007, the Commission issued its Order No. 2007-842 by which the Commission appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS, on January 14, 2008, First Choice pre-filed the direct testimony of Scott Howsare with the Commission and in Mr. Howsare's testimony requested a waiver of Regulation 103-610 regarding location of records;

WHEREAS, the purpose of this proceeding is to review the application filed by First Choice and its requests (i) for a Certificate of Public Convenience and Necessity to provide resold intrastate interexchange telecommunications services within the State of South Carolina; (ii) for alternative regulation of its interexchange business services, consumer card services, operator services, and private line services consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; and (iii) for waiver of Regulation 103-610 regarding location of records;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of First Choice to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the First Choice, and ORS has calculated certain performance ratios based upon information provided by First Choice;

WHEREAS, ORS has investigated the services to be offered by First Choice and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by First Choice;

WHEREAS, ORS has reviewed the prefiled testimony of Scott Howsare;

WHEREAS, as a result of its investigations, ORS has determined (a) First Choice intends to offer resold long-distance telecommunications services such as traditional switched long distance service, toll-free service, and calling card services; (b) the officers of First Choice possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, First Choice appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) First Choice's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the services provided by First Choice will meet the service standards required by the Commission; (f) the provision of services by First Choice will not adversely impact the availability of affordable telecommunications services; (g) to the extent it is required to do so by the Commission, First Choice will participate in the support of universally available telephone service at affordable rates; and (h) the provision of interexchange services by First Choice will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that First Choice's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof.

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of First Choice's witness Scott Howsare without cross-examination by ORS.

3) First Choice has submitted financial data, which was provided as Exhibit D to First Choice's Application and is incorporated by reference.

4) The Parties agree that First Choice should be granted a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services within the State of South Carolina.

5) First Choice has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2006) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing First Choice to maintain its books and records outside of the State of South Carolina in exchange for First Choice agreeing to provide access to its books and records. ORS is agreeable to First Choice maintaining its books and records at its principal offices in the State of Florida, and First Choice agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C.

Code Ann. § 58-4-55 (Supp. 2006) or § 58-9-1070 (Supp. 2006). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation.

6) First Choice acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2006) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. First Choice agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses for compliance with programs such as but not limited to the Universal Service Fund ("USF") and the Interim LEC Fund, and gross receipts. First Choice agrees to complete the reporting forms for such programs as but not limited to USF, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time.

7) ORS does not oppose First Choice's request for alternative regulation of its interexchange business services, consumer card services, operator services, and private line service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated for AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for First Choice's business services, private line, and customer network-

type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) grant First Choice the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements.

8) First Choice agrees to resell the services only of those interexchange carriers authorized to do business in South Carolina by the Commission.

9) First Choice agrees to file necessary financial or other information as required by the Commission and/or ORS for universal service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as First Choice. The Parties agree that such reports shall be filed pursuant to ORS' instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission.

10) First Choice agrees to maintain its books and records in a manner that would permit ORS to examine any of First Choice's reports.

11) First Choice agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

12) In the event that First Choice offers prepaid calling card services in the future, First Choice agrees that it shall post a surety bond in the amount of \$5,000 as required by the Commission.

13) First Choice agrees to comply with the verification regulations governing change of preferred carriers as established by Federal Communications Commission ("FCC"). In addition, First Choice agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658.

14) First Choice agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, First Choice agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, First Choice shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider.

15) First Choice agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation. S.C. Code Ann. § 58-9-1610 provides penalties of not less than twenty-five dollars nor more than five hundred dollars for each violation of Articles 1 through 13 of Chapter 9 of Title 58 and for failing, omitting or neglecting to obey, observe or comply with any lawful order of the Commission.

16) First Choice agrees to file a final revised tariff with both the ORS and the Commission and the revised tariff shall reflect and be in accordance with ORS' recommendations.

17) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above.

18) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

19) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

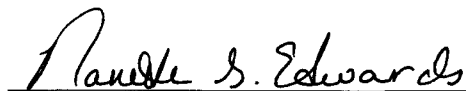
20) This Settlement Agreement shall be interpreted according to South Carolina law.

21) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this

document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

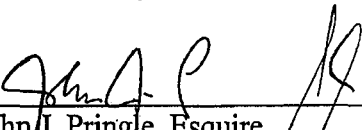


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6/05/08
Date

WE AGREE:

Representing First Choice Technology, Inc.



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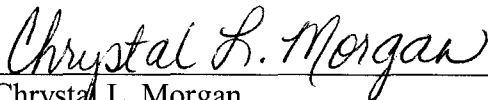
6/4/08
Date

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-393-C

IN RE:)	
Application of First Choice Technology, Inc. for)	CERTIFICATE OF
a Certificate of Public Convenience and Necessity)	SERVICE
to Provide Resold Intrastate Interexchange)	
Telecommunications Services Within the State of)	
South Carolina and for Alternative Regulation)	

This is to certify that I, Chrystal L. Morgan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **SETTLEMENT AGREEMENT** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

John J. Pringle, Jr., Esquire
Ellis, Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, SC, 29202



Chrystal L. Morgan

June 5, 2008
Columbia, South Carolina